

FILED

07 DEC 12 PM 4:05

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JORGE ALBERTO LUGOS CISNEROS,

Defendants.

) Case No.: 07 CR 3025 H

)

)

)

)

)

)

)

)

)

**ORDER**

**MARIA ELENA TORRERO SANCHEZ**

**A 76 379 808**

**Marshall Control No.: 05521-298**

**ORDER**

Upon STIPULATION OF THE PARTIES and request of material witness MARIA ELENA TORRERO SANCHEZ (hereafter "Material Witness"), and her counsel Wayne C. Mayer, and good cause appearing:

1. The MATERIAL WITNESS MARIA ELENA TORRERO SANCHEZ in the case of USA v JORGE ALBERTO LUGOS-CISNEROS, case number 07 CR 3205 H shall be deposed on December 19, 2007 at 2:00 p.m. The deposition will take place in office of the United States Attorney located at 880 Front Street, Fifth Floor, San Diego California.

1           2. All parties, meaning the United States and the defendant(s), shall attend the material  
2 witness deposition. The arresting agency shall bring the material witness above referenced to the  
3 deposition. If, in custody, the defendant shall be brought separately to the deposition and a marshal  
4 or designated representative shall remain present during the entire proceeding.

5           3. The United States Attorney's Office shall provide a videotape operator ("operator") and, if  
6 necessary, arrange for a court-certified interpreter to be present for the Material Witness. The cost  
7 of the interpreter for the material witness shall be borne by the United States Attorney's office.

8           4. If the defendant(s) need an interpreter other than the interpreter for the material witness (if  
9 any), then defense counsel will arrange for a court-certified interpreter to be present. The cost of a  
10 separate interpreter for the defendant(s) shall be paid by the Court.

11           5. The United States Attorney's Office shall arrange for a certified court reporter to be  
12 present. The court reporter shall stenographically record the testimony and serve as a notary and  
13 preside at the deposition in accordance with Rule 28(a), Federal Rules of Civil Procedure. The cost  
14 of the court reporter shall be borne by the United States Attorney's Office.

15           6. The deposition shall be videotaped, meaning a magnetic tape that records sound as well as  
16 visual images. At the conclusion of the deposition, on the record, the witness or any party may elect  
17 to have the witness(es) review the videotape record of the deposition to check for errors or  
18 omissions and to note any changes. Any errors, omissions or changes, and the reasons for making  
19 them, shall be stated in writing, signed by the witness(es), delivered to the notary in a sealed  
20 envelope and filed in the same fashion as described in Paragraph 17 below, unless the parties agree  
21 on the record to a different procedure.

22           7. The operator shall select and supply all equipment required to videotape the deposition and  
23 shall determine all matters of staging and technique, such as number and placement of cameras and  
24 microphones, lighting, camera angle, and background. The operator shall determine these matters  
25 in a manner that accurately reproduces the appearance of the witness and assures clear reproduction  
of both the witness' testimony and the statements of counsel. The witness(es), or any party to the  
action, may object on the record to the manner in which the operator handles any of these matters.

1 Any objections shall be considered by the Court in ruling on the admissibility of the videotape  
2 record. All such objections shall be deemed waived unless made promptly after the objector knows,  
3 or had reasonable grounds to know, of the basis for such objections.

4 8. The deposition shall be recorded in a fair, impartial, objective manner. The videotape  
5 equipment shall be focused on the witness(es); however, the operator may when necessary or  
6 appropriate, focus upon charts, photographs, exhibits or like material being shown to the  
7 witness(es).

8 9. Before examination of the witness(es), the Assistant United States Attorney shall state on  
9 the video record: his/her name; the date, time and place of the deposition; the name of the  
10 witness(es); the identity of the parties and the names of all persons present in the deposition room.  
11 The court reporter shall then swear the witness on the record. Prior to any counsel beginning an  
12 examination of the witness(es), that counsel shall identify himself/herself and his/her respective  
13 client.

14 10. Once the deposition begins, the operator shall not stop the videotape recorder until the  
15 deposition concludes, except that, any party or the witness(es) may request a brief recess, which  
16 request will be honored unless a party objects and specifies a good faith basis for the objection on  
17 the record. Each time the tape is stopped or started, the operator shall state on the record the time  
18 the recording stopped and the time it resumed. If the deposition requires the use of more than one  
19 tape, the operator shall sequentially identify on the record the end and beginning of each tape.

20 11. All objections both as to form and substance shall be recorded as if the objection had  
21 been overruled. The Court shall rule on the objections at the appropriate time. The party raising the  
22 objection(s) shall prepare a transcript for the Court to consider. All objections shall be deemed  
23 waived unless made during the deposition.

24 12. The Party offering the deposition into evidence at trial shall provide the Court with a  
25 transcript of the portions so offered.

13. Copies of all exhibits utilized during the videotaped deposition shall be marked for  
identification during the deposition and attached to the videotaped record.

1           14. At the conclusion of the deposition, any objection, including the basis, to the release the  
2 material witness(es) from custody shall be stated on the record. If there is no objection, the attorney  
3 for the material witness(es) shall immediately serve all parties with a "Stipulation and Proposed  
4 Order for Release of the Material Witness(es)" and submit the Order to the Clerk of the Court for  
5 the Judge's signature. Prior to release from custody the attorney for the Government shall serve the  
6 material witness(es) with a subpoena for the trial date and a travel fund advance letter.

7           15. The operator shall provide a copy of the videotaped deposition to any party who requests  
8 a copy at that party's expense. After preparing the requested copies, if any, the operator shall  
9 deliver the original videotape to the notary along with a certificate signed by the operator attesting  
10 that the videotape is an accurate and complete recording of the deposition. The notary shall file the  
11 original tape and certification with the Clerk of the Court in a sealed envelope marked with the  
12 caption of the case, the name of the witness(es) and the date of the deposition.

13           16. The notary shall file with the Clerk of the Court in a sealed envelope the original  
14 videotape, along with any exhibits offered during the deposition. The sealed envelope shall be  
15 marked with the caption of the case, the name of the witness(es), and the date of the deposition. To  
16 that envelope, the notary shall attach the certificate of the operator. If all counsel stipulate on the  
17 record, the Government may maintain the original videotape until production is ordered by the  
Court or requested by any party.

18           17. Unless waived by the parties, the notary shall give notice to all parties of the filing of the  
19 videotaped deposition with the Court pursuant to Federal Rule of Civil Procedure 30(f)(3).

20           18. If any party objects on the record to the release of the material witness(es) from custody,  
21 the objecting party must request in writing a hearing on the issue before the federal judge who is  
22 assigned the case or to such other district judge or magistrate judge as they designate. Notice of the  
23 request for Hearing must be served on all parties and filed with the Clerk of the Court within  
24 twenty-four (24) hours after the completion of the deposition, with a courtesy copy to chambers.

25           The court shall set a briefing schedule, if appropriate, and a date and time for the objection to be  
heard as soon as reasonably practicable. At the hearing, the objecting party must establish to the

1 Court's satisfaction an appropriate legal basis for the material witness (es) to remain in custody. If,  
2 after the hearing, the Court orders the release of the material witness (es), the material witness (es)'  
3 attorney shall immediately present the release order to the Court for signature and filing. Before  
4 release of the material witness (es) from custody the Government shall serve the material witness  
5 (es) with a subpoena for the trial date and a travel fund advance letter.

6 19. To the extent that the procedures set forth herein for videotaping vary from those set forth  
7 in Rules 28 and 30 F.R.Civ.P., these variations are found to be good cause shown as allowed by  
8 F.R. Civ. P. 29.

9 **IT IS SO ORDERED.**

10 DATE: 12/11/07

11   
12 Barbara L. Major  
13 UNITED STATES MAGISTRATE JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25